

REMARKS

As a preliminary matter, the Examiner is kindly requested to acknowledge Applicant's claim for foreign priority and receipt of the certified copy of the priority document by marking Boxes 12(a)(3) in the next Patent Office communication. The certified copy of the priority document was forward to the Patent Office from the International Bureau on July 21, 2005 and is viewable in the Image File Wrapper on the Patent Office's PAIR website. Also, the Notice of Acceptance of Application Under 35 U.S.C. §371 and 37 C.F.R. §1.495 mailed on August 9, 2006 acknowledges receipt pf the priority documents.

Favorable reconsideration of this application is respectfully requested in view of the following remarks.

Applicant appreciates the courtesies shown to Applicant's representative by Examiners Demeree and Newhouse during the May 17, 2010 personal interview. The reasons warranting favorable action discussed during the interview are incorporated into the following remarks and constitute Applicant's separate record of the interview.

The Official Action rejects independent Claims 2 and 7 under 35 U.S.C. §103(a) over U.S. Patent No. 6,131,806 to Hess, III et al. ("Hess") in view of U.S. Patent No. 6,279,779 to Laciacera et al. ("Laciacera").

The Official Action states that Hess discloses a dispensing structure mounted on a slanting top/front surface of a container as illustrated in Fig. 22 of the patent, and that the container includes an area for a pre-laminated hole sealed by a film. Hess's dispensing structure includes a frame body 348 (450) comprised of a flange 346 (442) and a cylindrically-shaped spout portion 348 (450) extending from the

flange 346 (442). The flange 346 (442) is positioned inside the container. As a result of this configuration, an attempt to remove the dispensing structure from the container will be evident as discussed in lines 1-5 of column 2 of the Hess patent. For instance, an attempt to remove the dispensing structure from the container can cause the flange 346 (442) and/or container wall around the flange to be destroyed.

The Official Action acknowledges that the dispensing structure does not include a movable ring as defined in independent Claims 1 and 7. In this regard, the Official Action takes the position that Laciacera discloses a cap-engaging ring corresponding to the claimed movable ring, and that it would have been obvious to one skilled in the art to utilize Laciacera's cap-engaging ring in the dispensing structure disclosed in Hess.

During the interview with the Examiners, Applicant's representative explained that Hess's container does not include an area for a pre-laminated hole sealed by a film. This is because Hess's dispensing structure is mounted on the container such that the flange 346 (442) is positioned on the *interior* of the container as shown in Fig. 22 of Hess. It was further explained that one reason for this configuration is so that an attempt to remove the dispensing structure will be evident as discussed above. It was also explained that there would have been no reason to use Laciacera's opening device 2 in Hess's container because Hess's container does not possess a film-sealed hole that needs to be opened by a cutting member.

During the interview, the Examiners acknowledged that there is no pre-laminated hole sealed by a film in Hess's container. They took the position, however, that it would have been obvious to replace Hess's entire dispensing structure with Laciacera's opening device 2 including the pierceable portion 4 of

Laciacera's package. That is, the Examiners expressed the view that it would have been obvious to position Laciacera's opening device 2 and pierceable portion 4 of the package on a slanted or tilted surface of a container.

However, as discussed during the interview, replacing Hess's dispensing structure with Laciacera's opening device 2 (including the pierceable portion 4) would result in the base flange 19 of the opening device 2 being provided on the *outside* of the container rather than on the inside of the container. Such a configuration would destroy the tamper evident function provided by Hess's dispensing structure as discussed above.

Nevertheless, to advance prosecution of this application independent Claims 2 and 7 are amended as suggested by the Examiners during the interview to define that the cylindrically-shaped spout portion extends at an angle from the flange so that the spout portion is substantially parallel with the vertically extending wall of the packaging container. The Examiners said during the interview that defining the cylindrically-shaped spout portion in this manner would help distinguish the claimed pouring plug over the arrangement resulting from the stated combination of the disclosures in the Hess and Laciacera patents. For instance, the Examiners said that the spout frame 15 of Laciacera's opening device 2, if mounted on the slanted or tilted surface of Hess's container, would be oriented orthogonally with respect to that surface and the spout frame 15 would not extend substantially parallel to the vertical walls of the container. The Examiners also said one skilled in the art would not have been motivated to orient such a modified spout frame 15 to be substantially parallel to the vertically extending wall of the container as claimed.

Accordingly, independent Claims 2 and 7 are patentable over Hess and Laciacera for at least the above reasons. Claims 3-6 are patentable over Hess and Laciacera at least by virtue of their dependence from patentable independent Claim 2. Thus, a detailed discussion of the additional distinguishing features recited in these dependent claims is not set forth at this time.

Withdrawal of the rejection is respectfully requested.

Should any questions arise in connection with this application or should the Examiner believe that a telephone conference with the undersigned would be helpful in resolving any remaining issues pertaining to this application the undersigned respectfully requests that he be contacted at the number indicated below.

Respectfully submitted,

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